

Internal Revenue Service  
District Director

Department of the Treasury  
31 Hopkins Plaza  
Baltimore, MD 21201

Person to Contact:

Telephone Number:

Date: JAN 27 1997

CERTIFIED MAIL - RECEIPT REQUESTED

Dear Applicant:

We have considered your application for recognition of exemption as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

You were incorporated in [REDACTED]. Your only activity is acting as a sponsor for the [REDACTED] for the [REDACTED] is a child care center. The owner(s) of [REDACTED] You administer under a state contract with the [REDACTED] of [REDACTED], the [REDACTED] in connection with the [REDACTED]. This program reimburses the [REDACTED] for meals fed to children at the [REDACTED].

You are considered a sponsor [REDACTED]. As a [REDACTED], you have agreed to comply with all regulations set forth in [REDACTED], and all Federal and State policies and requirements for the program. You accept final administrative and financial responsibility for all approved facilities under your sponsorship. You monitor the [REDACTED] at least twice a year and provide annual training sessions on the program and nutritional concerns as required by your contract. The State pays all costs involved including your operating costs and food reimbursements. You do not solicit for contributions nor do you have other sources of income.

The [REDACTED] involved is a private for-profit day care provider licensed by the [REDACTED]. Your organization was specifically formed to sponsor the [REDACTED] in the [REDACTED], since it could not receive food reimbursement in any other manner. The [REDACTED] charges fees to the parents for the care of the children. Any reimbursement from the [REDACTED] would be a duplicate part of the amount paid and there is no provisions to reduce charges to the parents or other payers where [REDACTED] are received.

Under [REDACTED] the [REDACTED] is reimbursed a set amount for different types of meals. In [REDACTED], these amounts were \$ [REDACTED] for breakfast, \$ [REDACTED] for lunch or supper and \$ [REDACTED] for snacks. A maximum of [REDACTED] meals and [REDACTED] snack can be reimbursed per child per day. The total reimbursement is based on the number of enrolled children and meals served. Children eligible for enrollment are full-time (vs. drop-in) children whose parent has completed an application

DATE	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
INITIALS	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
NAME	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

0045 0015



██████████, you prepare the paperwork for the ██████████. The ██████████ sends a check to you for the amount involved with your ██████████.

You also receive amounts from the ██████████ for your administrative expenses.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations which are organized and operated exclusively for religious, charitable and educational purposes no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines charitable as including relief of the poor and distressed or the underprivileged and lessening the burdens of government.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not operated exclusively for exempt purposes unless it serves a public rather than a private interest. This includes establishing that the organization is not organized or operated by the benefit of private interests such as designated individuals or controlled, directly or indirectly, by private interests. An organization's founders, directors or officers may not by reason of their position acquire any of its funds.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private individuals.

Revenue Ruling 66-104, 1966-1 C.B. 135, discusses an organization which made grants to writers who produced textbooks which the organization then published. Both the organization and the authors received substantial royalties from the publication of the books. It was held that not to be exempt since all participants were expecting a profit.

Revenue Ruling 78-86, 1978-1 C.B. 151 discusses an organization which established and operated a public off-street parking facility. The organization was formed by a group of local merchants. In order to provide their customers with free parking while they shopped, the merchants set up a free parking validation stamp system. The parking arrangements served the merchants' private interest by encouraging the public to patronize their stores. Although there was some public benefit derived from the operation of the parking lot, it could not be said to be operated exclusively for exempt purposes.

Revenue Ruling 70-585, 1970-2 C.B. 115 discusses various housing organizations which aid low and moderate income families. The ruling reads in part:

"The fact that an organization receives public funds under State or Federal programs for housing is not determinative; qualification is based on whether or not the organizations is charitable within the meaning of section 501(c)(3)."

Revenue Rulings 85-1, & 85-2, 1985-1 C.B. 177 & 178, outline the factors to consider in determining if an organization lessens the burdens of government. These factors include: 1) whether the activity is in fact a burden of the government and 2) whether the organization is actually lessening



that burden by conducting the activity.- In making that decision, the interrelationship of the parties and the control exercised by each is considered. Also considered is how the activity was previously conducted, who pays the cost of the activity, and whether the activity is one that would be performed by the governmental unit if the organization did not exist.

Revenue Ruling 85-1 specifically discusses an organization which provides funds that allow the local county's undercover narcotics agents to buy drugs in the course of their efforts to apprehend persons engaged in illegal drug traffic. No governmental funds are otherwise available. The organization is considered to lessen the burdens of the government by providing funds to augment its law enforcement activities.

Revenue Ruling 85-2 specifically discusses an organization that provides legal advice and training to guardians ad litem representing neglected and abused children before the courts. The organization provides legal counsel and training to volunteers to serve as guardians ad litem. The organization is supported in part by grants from the juvenile court. The organization is considered to lessen the burden of government since it is providing guardians ad litem, without which the government would have to appoint and pay attorneys to serve as such.

Revenue Ruling 81-276, 1981-2 C.B. 128, described a professional standards review organization which is considered exempt by being charitable and lessening the burdens of government. The organization was established to perform the services of a professional standard review organization pursuant to section 249F of the Social Security Amendments of 1972 and was designated as a PSRO for a particular area by the Department of Health and Human Services (HHS). It derives all of its support from contracts with HHS and provides for payment of all reasonable and necessary expenses incurred by it in the performance of its functions. One of its functions is to determine whether medicare and medicaid services proposed can be, consistent with the provision of appropriate medical care, effectively provided on a more economically basis. PSROs were intended to reduce over utilization of health services provided under medicare and medicaid. Membership is open without charge to all physicians in the designated area.

You are not operating for exclusively exempt purposes under section 501(c)(3) of the Code. Your operation specifically provides private benefit to the related [REDACTED]. Your operation provides funds to the [REDACTED] to meet its [REDACTED] and business obligations to provide meals to its clients. In doing so, you are increasing the [REDACTED] profit. Additionally you are operating as a contractor with the state government. These activities do not further any exempt purpose under section 501(c)(3).

Additionally your activities do not lessen the burdens of government. Unlike Revenue Ruling 85-1 & 85-2, you are not providing services at no cost or below cost. You are also not providing services in an area the government does not have expertise in or ensuring cost reduction for other governmental programs such as Medicare and Medicaid as the PSROs described in Revenue Ruling 81-276. In actuality, you are increasing the costs of government by duplicating costs for children who are being cared for with governmental funds or receiving food subsidies by their families. You also, have not shown that your administrative amounts paid by the government through your contract are less than what the government would otherwise have to pay.



Accordingly, you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 or under any related paragraph of the Internal Revenue Code. Contributions to you are not deductible under section 170. You must file Federal income tax returns.

If you do not agree with our proposed denial, we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law and any other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If we do not hear from you within 30 days, this ruling will become our final determination on this matter. Also, appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

Because this letter could help resolve any question about your exempt status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



District Director

Enclosure:  
Pub. 892